

## **MINUTES OF OCTOBER 5, 2015**

The regular meeting of the Sussex County Board of Adjustment was held on Monday, October 5, 2015, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Dale Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Brent Workman, and Mr. Jeff Hudson. Mr. Norman Rickard was absent. Also in attendance were James Sharp – Assistant County Attorney, and staff members, Ms. Janelle Cornwell – Planning and Zoning Manager, and Mrs. Jennifer Norwood – Recording Secretary.

The Pledge of Allegiance was led by Mr. Callaway.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 4 – 0.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to approve the Minutes and Findings of Fact for August 17, 2015 as circulated. Motion carried 4 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

### **PUBLIC HEARINGS**

**Case No. 11644 – Annette M. Ensley** – seeks variances from the side yard setback, the minimum square footage for a parcel, and the minimum lot width for a parcel requirements (Section 115-42A and 115-42B of the Sussex County Zoning Ordinance). The property is located on the northwest side of Powell Farm Road approximately 245 feet south of Wesley Avenue. 911 Address: 32214 Powell Farm Road, Frankford. Zoning District: GR. Tax Map Nos.: 1-34-11.00-80.00 and 1-34-11.00-79.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

C. Claudia Drew Waters and Gregory Hook were sworn in to testify about the Application. Raymond Tomasetti, Jr., Esquire and Harold Dukes, Esquire presented the case to the Board on behalf of the Applicants.

Mr. Tomasetti stated that the Applicant is requesting a variance of 2.4 feet from the ten (10) feet side yard setback requirement for an existing dwelling on the west side (for Parcel 79) , a variance of 15,318 square feet from the minimum 32,670 square feet requirement for a parcel (for Parcel 79), a variance of 9,827 square feet from the minimum 32,670 square feet requirement for a parcel (for Parcel 80), a variance of 48.88 feet from the minimum 150 feet lot width requirement for a parcel (for Parcel 80), and a variance of 110.68 feet from the minimum 150 feet lot width requirement for a parcel (for Parcel 79).

Mr. Dukes stated that he and Mr. Tomasetti represent neighbors who have a boundary line dispute; that the Property has been in the family for many generations; and that the parties seek to divide the Property but need the variances due to the setback issues.

Mr. Tomasetti stated that the two (2) parcels have been in the family since 1946; that no surveys were completed until 2009 and that survey showed the encroachments; that Ms. Waters has owned Parcel 79 since 1980; that she placed the dwelling on Parcel 79 in 1988; that the owner of Parcel 80 acquired ownership in 2004; that Ms. Waters' home and shed encroach onto Parcel 80; that the parties sought an amicable resolution; that two improvements located on Parcel 80 have been removed; that the parties met with the surveyor Greg Hook to address the encroachments; that the properties are narrow and unique; that Parcel 79 is so narrow that it would be impossible to replace the existing home; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the lot width of each parcel has existed since 1946; that the exceptional practical difficulty was not created by the Applicant; that Ms. Waters believed that the dwelling complied with setback requirements when it was placed; that the variances do not alter the character of the neighborhood; that there are other lots in the area with similar road frontage; that the variances requested are the minimum variances to afford relief; that a portion of Parcel 80 was a life interest designation to a family member who has since passed; that this designation will no longer exist once the survey is recorded; and that Parcel 80 is currently vacant but could be developed with a house even after the Property is divided as proposed.

Mr. Hook testified that the proposed property line was consistent with the existing driveway used for the dwelling on Parcel 79; and that the shed is 8.2 feet from the rear property line.

Ms. Waters, under oath, affirmed the statements made by Mr. Tomasetti. Ms. Waters testified that the dwelling on Parcel 79 is a manufactured home located on a foundation.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11645 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The family owned the Property and this situation is unique;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The variances are necessary to enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicant;
5. The variances will not alter the essential character of the neighborhood;
6. The use will not be detrimental to the public welfare; and
7. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11645 – Ryan Nosia & Joelle Nosia** – seek variances from the side yard and front yard setback requirements (Section 115-42B, 115-183C, and 115-185F of the Sussex County Zoning Ordinance). The property is located on the southeast side of Pintail Drive approximately 413 feet north of Swann Drive. 911 Address: 36958 Pintail Drive, Selbyville. Zoning District: GR. Tax Map No.: 5-33-12.16-58.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received one (1) letter in support of the Application and had not received any correspondence in opposition to the Application.

Ryan Nosia was sworn in to testify about the Application. Tim Willard, Esquire, presented the case to the Board on behalf of the Applicants.

Mr. Willard stated that the Applicants are requesting a variance of 3.5 feet from the ten (10) feet side yard setback requirement for a set of steps on the south side, a variance of 3.8 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of five (5) feet from the thirty (30) feet front yard setback requirement for a dwelling, and a variance of 0.5 feet from the five (5) feet side yard setback requirement for an existing shed on the north side; that the Applicants purchased the Property in 2009; that the Applicants intend to sell the Property but a recent survey showed the encroachments; that the Property is located in Swann Keys; that the small lot measures 50 feet by 110 feet; that the existing bulkhead shortens the usable length of the lot to eighty (80) feet; that all the improvements existed on the Property in 2009; that the dwelling has been on the lot since 1978; that the 4,000 square feet lot is unique in size; that the variances will enable reasonable use of the Property; that the exceptional practical difficulty was not created by the Applicants; that there have been no changes to the Property since the Applicants' purchase in 2009; that the variances will not alter the essential character of the neighborhood; that the neighbors have no objection to the Application; that there have been multiple variances issued in the development; and that the variances requested are the minimum variances to afford relief.

Mr. Nosia, under oath, affirmed the statements made by Mr. Willard. Mr. Nosia testified that he believes the shed has been on the Property since 1978; that there is minimal flooding on the Property; and that a portion of the rear yard is in the lagoon.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11646 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is unique due to its size;
2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Hudson, seconded by Mr. Mills, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11646 – Michael Huffer & Melissa Huffer** – seek variances from the front yard and side yard setback requirements (Section 115-42B of the Sussex County Zoning Ordinance). The property is located on the northwest side of Blue Teal Road approximately 0.24 miles north of Swann Drive. 911 Address: 37049 Blue Teal Road, Selbyville. Zoning District: GR. Tax Map No.: 5-33-12.16-434.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Melissa Huffer was sworn in to testify about the Application. Manaen Robinson, Esquire, presented the case on behalf of the Applicants.

Mr. Robinson stated that the Applicants are requesting a variance of 0.2 feet from the ten (10) feet front yard setback requirement for an existing dwelling, a variance of 2.9 feet from the ten (10) feet side yard setback requirement for an existing dwelling on the north side, and a variance of 0.8 feet from the ten (10) feet side yard setback requirement for an existing dwelling on the south side; that the Property is located in Swann Keys; that the Applicants purchased the Property in December 2002; that the Property is under contract to be sold but a survey completed for settlement showed the encroachments; that the Property is very narrow as it is less than 40 feet wide; that the existing manufactured home has been on the lot since 1988; that the Applicants built an addition in 2003; that a Certificate of Compliance was issued by Sussex County in 2004 for the addition; that the Property is narrow in size making it unique; that the Property cannot otherwise be developed; that the variances are necessary to enable reasonable use of the Property as the variances will allow the structures to remain in their current location; that the difficulty was not created by the Applicants since the Applicants did not create the size of the lot; that the variances

will not alter the essential character of the neighborhood; that the variances do not impair the uses of the neighboring and adjacent properties; and that the variances are the minimum variances to afford relief.

Ms. Huffer, under oath, affirmed the statements made by Mr. Robinson. Ms. Huffer testified that the addition was for a bathroom; and that there have been no complaints from the neighbors.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Workman stated that he would move that the Board recommend approval of Variance Application No. 11646 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The narrowness of the lot makes the Property unique;
2. The variances are necessary to enable reasonable use of the Property since the Certificate of Compliance was issued;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Workman, seconded by Mr. Mills, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Hudson – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11647 – Lisa L. Willie and William L. Willie, Jr.** – seek variances from the front yard and side yard setback requirements (Section 115-42B, 115-183C, and 115-182B & D of the Sussex County Zoning Ordinance). The property is located on the southeast corner of Mallard Drive and Swann Drive. 911 Address: 37631 Swann Drive, Selbyville. Zoning District: GR. Tax Map No.: 5-33-12-16-142.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

William Willie, Jr. was sworn in to testify about the Application. Manaen Robinson, Esquire, presented the case to the Board on behalf of the Applicant.

Mr. Robinson stated that the Applicant is requesting a variance of 7.8 feet from the fifteen (15) feet corner side yard setback requirement for an existing dwelling, a variance of 1.4 feet from the fifteen (15) feet corner side yard setback requirement for an existing porch, a variance of twelve

(12) feet from the fifteen (15) feet corner side yard setback requirement for an existing shed, a variance of 3.6 feet from the ten (10) feet side yard setback requirement for an existing dwelling, a variance of 3.2 feet from the five (5) feet side yard setback requirement for a set of steps, and a variance of 2.3 feet from the five (5) feet side yard setback; that the Applicants purchased the Property in June 2015; that the Property is located in Swann Keys; that a survey showed the encroachments; that the corner lot is odd in shape; that a large portion of the Property is in the lagoon; that the manufactured home was placed on the Property in 1989; that the Property cannot be otherwise developed in strict conformity with the Sussex County Zoning Code; that the variances are necessary to enable reasonable use of the Property; that the difficulty was not created by the Applicants; that the improvements were located on the Property in their present locations at the time the Applicants acquired the Property; that the variances will not alter the character of the neighborhood; and that the variances are the minimum variances to afford relief.

Mr. Willie, under oath, affirmed the statements made by Mr. Robinson. Mr. Willie testified that the manufactured home is on a block foundation; that there are minimal flooding issues; and that there have been no complaints from the neighbors.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11647 for the requested variances based on the record made at the public hearing and for the following reasons:

1. The Property is on a corner and partially in the lagoon which makes it unique;
2. The variances are necessary to enable reasonable use of the Property;
3. The exceptional practical difficulty was not created by the Applicants;
4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variances be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Hudson – yea, Mr. Workman – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11648 – Nicholas Shevland & Heather Shevland** – seek a special use exception to operate a daycare facility (Section 115-40C and 115-210A(3)(e) of the Sussex County Zoning Ordinance). The property is located on the northwest side of Parker House Road, approximately 0.24 miles south of Beaver Dam Road. 911 Address: 33572 Parker House Road, Frankford. Zoning District: GR. Tax Map No.: 1-34-16.00-698.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Nicholas Shevland and Heather Shevland were sworn in and testified requesting a special use exception to operate a daycare facility.

Mrs. Shevland testified that the Applicants have operated a daycare in the Frankford area for approximately eight (8) years; that they plan to relocate to this property and are under contract to purchase this property; that, at any one time, they care for approximately twelve (12) children between the ages of 2 to 5 years old; and that the use will not substantially adversely affect the surrounding and neighboring properties.

Mr. Shevland testified that the current owner of the Property is in poor health and the Property is in disrepair; that the Applicants plan to improve the Property and make minor interior changes to accommodate the pre-school; that there is a paving business located nearby; that a neighbor has indicated support of the Application; that they have not received complaints about their current business; that their hours of operation are Monday through Thursday from 8:00 a.m. to 2:30 p.m. and Fridays 8:00 a.m. to 11:00 a.m.; that they will provide a fenced in play area and adequate parking which will be paved; and that most of the improvements to the Property will be made to the interior of the building.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mills stated that he would move that the Board recommend approval of Special Use Exception Application No. 11648 for the requested special use exception based on the record made at the public hearing because the use does not substantially adversely affect the uses of the neighboring and adjacent properties.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the special use exception be **granted for the reasons stated**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11649 – Nancy Tankelson & Francois Reverdy** – seek variances from the side yard setback requirement (Section 115-34B and 115-185D of the Sussex County Zoning Ordinance). The property is located on the southeast corner of Josephine Street and Fisher Street. 911 Address: 38386 Josephine Street, Rehoboth Beach. Zoning District: MR. Tax Map No.: 3-34-20.09-138.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

Nancy Tankelson and Francois Reverdy were sworn in and testified requesting a variance of seven (7) feet from the ten (10) feet side yard setback requirement for a proposed pool, a variance of four (4) feet from the ten (10) feet side yard setback requirement for a proposed pool, and a variance of five (5) feet from the ten (10) feet side yard setback requirement for an attached shed.

Mr. Reverdy testified that the Board granted a variance for the dwelling in 2011; that in April 2014 they moved to the Property permanently; that Ms. Tankleson would like to place a swimming pool on the Property; that the proposed pool will allow Ms. Tankleson to swim laps which helps alleviate her arthritis; that the only size pool that will fit on the Property within the setback area is a pool 10 feet wide by 25 feet long which is not large enough to swim laps; that the proposed pool will measure 14 feet wide by 36 feet long; that pre-fabricated pools do not come in sizes which are 10 feet wide by 36 feet long; that the size of the proposed pool is best suited pool for the intended use; that the pool will be heated by geothermal wells; that the proposed location keeps the pool the proper distance from the existing wells on the Property; that the Applicants do not rent out the Property; that they will install the necessary fences and will install landscaping to protect the view of the pool area; that the variances will not alter the essential character of the neighborhood; that the neighborhood is primarily residential and the pool is for their use only; that the size of the Property and the size of the pool needed creates a unique situation; that the Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code; that the difficulty was not created by the Applicants; that the variances will not alter the essential character of the neighborhood; that the variances will not impair the uses of adjacent and neighboring properties; that the use will not be detrimental to the public welfare; that the variance is the least modification of the regulation at issue; that the variances requested are the minimum variances necessary to afford relief; that he built the shed; that there is a half inch gap between the shed and the dwelling to prevent termites from entering the house; and that, aesthetically, the shed is attached.

Ms. Tankleson testified that there are other pools in the neighborhood; that she suffers from vertigo and other health problems which limit her ability to exercise; and that she likes to swim for exercise and has experienced problems when swimming in the ocean.

The Board found that no parties appeared in support of or in opposition to the Application.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously to take the case under advisement. Motion carried 4 – 0.

At the conclusion of the public hearings, the Chairman referred back to this case. Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously to **leave the record open for the limited purpose of allowing the staff to investigate whether the shed is attached.** Motion carried 4 – 0.



**Case No. 11650 – David W. Smith & Carolyn E. Smith** – seek variances from the side yard setback requirements (Section 115-34B of the Sussex County Zoning Ordinance). The property is located on the southeast side of Smiths Landing approximately 135 feet south of Oak Orchard Road. 911 Address: 28590 Smith Landing, Millsboro. Zoning District: MR. Tax Map: 2-34-35.05-121.00.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning had not received any correspondence in support of or in opposition to the Application.

David Smith and Carolyn Smith were sworn in and testified requesting a variance of 8.1 feet from the ten (10) feet side yard setback requirement on the east side and a variance of seven (7) feet from the ten (10) feet side yard setback requirement on the west side for a proposed dwelling.

Mr. Smith testified that the Applicants own an odd shaped lot in Oak Orchard; that the Applicants purchased the Property in 2005; that the existing dwelling was in poor shape; that the Board granted the Applicants a variance in 2005 to replace the dwelling with a new structure to be built in the same footprint as the existing dwelling; that, due to the shift in the economy, they never built the new dwelling; that the original variance approval is no longer valid; that the Applicants live on a nearby property; that houses in the neighborhood do not comply with the Sussex County Zoning Code; that the proposed two (2) story dwelling will be on pilings to raise the dwelling above the flood zone; that the proposed dwelling will cantilever approximately two (2) feet over the pilings; that the dwelling can be constructed without trespassing on the neighboring lots; that the proposed dwelling is closer to one side of the lot to leave access for pedestrians on the opposite side of the lot; that the proposed dwelling can be reduced in size; that the Property is unique; that the difficulty was not created by the Applicants; that the variances will not alter the character of the neighborhood; and that the variances requested are the minimum variances to afford relief.

Mrs. Smith testified that the Property is in a flood zone; that the Applicants intend to build a new dwelling on the lot and sell the Property to a new buyer; that the lots in the neighborhood are very narrow; that the buyer wants to set the dwelling far enough away from the water so as to not block any views of neighboring properties; that the dwelling will be set in a manner similar to other dwellings in the area; that there are vacant properties on both sides of the lot; and that a deeded easement gives access to the Property.

Cindy Battles was sworn in and testified in opposition to the Application and testified that she owns an adjacent property; that she has concerns with the drainage and flooding issues in the area; that she is concerned about the height of the grade under the proposed dwelling; that the proposed dwelling seems large for the area; that other houses in the area are located near property lines as well; that her property is 140 feet wide and there are two houses on that property; and that another property she owns nearby is only 39 feet wide.

Mike Koly was sworn in and testified in opposition to the Application and testified that he is also concerned with the flooding issues in the area; that the proposed dwelling is too large for the lot; and that he feels a smaller dwelling would be more suitable for the area.

Mr. Smith testified that the dwelling will not increase the flooding issues in the area.

Patricia Ferrier, Robert Ferrier and Karen Donovan were sworn in and testified in opposition to the Application.

Ms. Donovan testified that Patricia Ferrier and Robert Ferrier are her parents and they own the adjacent property; that the Applicants own property on the other side of their property; that the improvement on that property is only a few inches from their property line; that they are concerned these variances will compromise their property.

Mrs. Ferrier submitted a survey of her family's property. Mr. Ferrier testified that they were concerned the Applicants were trying to take a portion of their property.

Mr. and Mrs. Ferrier testified that, even though they are aware that the Applicants are not seeking to take a portion of their property, they are still opposed to this Application.

The Board found that no parties appeared in support of the Application.

The Board found that five (5) parties appeared in opposition to the Application.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously to take the case under advisement. Motion carried 4 – 0.

At the conclusion of the public hearing, the Chairman referred back to this case. Mr. Mills stated that he would move that the Board recommend approval of Variance Application No. 11650 based on the record made at the public hearing for a variance of 7.7 feet from the east side of the ten (10) feet side yard setback requirement and a variance of 4.7 feet from the west side of the ten (10) feet side yard setback requirement for the proposed dwelling, since the variance requested is not the minimum variance to afford relief and for the following reasons:

1. The narrow property creates a unique situation;
2. The Property cannot otherwise be developed in strict conformity with the Zoning Code without any variances;
3. The variances granted will enable reasonable use of the Property;
4. The exceptional practical difficulty was not created by the Applicants;
5. The use is not detrimental to the public welfare;
6. The variances will not impair the uses of the neighboring and adjacent properties; and
7. The variances will not alter the essential character of the neighborhood.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the variance be **granted for 7.7 feet from the east side of the property and 4.7 feet from the west side of the property, which are the same variances approved by the Board in 2005 and for the reasons stated.** Motion carried 4 – 0.

The vote by roll call: Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

### **OLD BUSINESS**

**Case No. 11612 – 19366 Coastal Highway, LLC** – seek a special use exception to replace an existing billboard and variances from the side yard setback, the separation from another billboard, height, the distance from public lands and maximum square footage for a billboard requirements (Section 115-159.5B(2), 115-159.5C, and 115-210A(3) of the Sussex County Zoning Ordinance). The property is located on the west side of Coastal Highway (Route 1) between Miller Road and Airport Road. 911 Address; 19366 Coastal Highway, Rehoboth Beach. Zoning District: C-1. Tax Map No.: 3-34-13.00-325.29.

The Board discussed this case, which has been tabled since September 14, 2015.

Mr. Mills stated that he does not feel the proposed billboard will not visually impact the neighboring shopping center; and that the proposed height will actually be less of an impact than the current billboard.

Mr. Workman stated that he has no issues with the proposed billboard since there are similar billboards in the area; and that he does not feel the proposed billboard will visually impact the neighboring shopping center.

Mr. Hudson and Mr. Callaway stated that they are not in favor of the square footage variance for the proposed billboard.

Mr. Mills stated that he would move that the Board recommend approval of Special Use Exception/Variance Application No. 11612 for the requested special use exception based on the record made at the public hearing because the use will not substantially adversely affect the uses of the neighboring and adjacent properties and for the requested variances with exception to the square footage variance and that the Board approves a variance of only 180 square-feet per side for the proposed billboard and for the reasons stated;

1. The topography of the Property makes it unique and the location of the existing sign creates a unique situation;
2. The Property cannot otherwise be developed in strict conformity to the Sussex County Zoning Code;
3. The exceptional practical difficulty was not created by the Applicant;

4. The variances will not alter the essential character of the neighborhood; and
5. The variances sought are the minimum variances necessary to afford relief.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the special use exception be **granted for the reasons stated and the variances be granted with the exception that the variance from the square footage requirement be modified to allow a maximum variance of 180 square feet per side and for the reasons stated.** Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11631 – James Brittingham & Donna Brittingham** – seek a variance from the front yard setback requirement (Section 115-25c of the Sussex County Zoning Ordinance). The property is located on the north side of Beauchamp Lane approximately 285 feet east of Beaver Dam Road. 911 Address: 21647 Beauchamp Lane, Harbeson. Zoning District: AR-1. Tax Map: 234-10.00-103.12.

Mr. Mills was absent for the September 14, 2015 hearing, therefore he abstained from voting.

Mr. Workman stated that he listened to the audio from the initial hearing and was prepared to vote.

The Board discussed the case, which has been tabled since September 14, 2015.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variance be **granted.** Motion carried 3 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, and Mr. Callaway – yea.

**Case No. 11632 – Fiore Properties, LLC** – seeks a special use exception to operate a bed and breakfast inn (Section 115-23C(14) and 115-210A(3)(o) of the Sussex County Zoning Ordinance). The property is located on the east side of Beaver Dam Road approximately 1500 feet north of Holly Mount Road. 911 Address: 20415 Beaver Dam Road, Harbeson. Zoning District: AR-1. Tax Map No.: 2-34-10.00-103.10.

Mr. Mills was absent for the September 14, 2015 hearing, therefore he abstained from voting.

Mr. Workman stated that he listened to the audio from the initial hearing and was prepared to vote.

The Board discussed the case, which has been tabled since September 14, 2015.

Mr. Hudson stated that he would move that the Board recommend approval of Special Use Exception Application No. 11632 for the requested special use exception based on the record made at the public hearing because the use does not substantially adversely affect the uses of the neighboring and adjacent properties.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the special use exception be granted for the reasons stated. Motion carried 3 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, and Mr. Callaway – yea.

### **OTHER BUSINESS**

**Case No. 11204 – Bay Twenty LLC** – seeks a special use exception for additional “temporary” ground signs (Section 115-159G of the Sussex County Zoning Ordinance). The property is located south of Route 20 (Zion Church Road) corner of Road 382A (Johnson Road) within Foxhaven Subdivision. 911 Address: None Available. Zoning District: GR. Tax Map No.: 5-33-11.00-45.01 and 46.03.

Request for a time extension.

Ms. Cornwell read a letter from the Applicant requesting a second time extension for an additional eighteen (18) months.

Motion by Mr. Mills, seconded by Mr. Hudson, and carried unanimously that the request for the time extension be **granted for a period of six (6) months**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

**Case No. 11445 – Gerald Friedel & Susan Friedel** – seek variances from the front yard and side yard setback requirements (Section 115-25B of the Sussex County Zoning Ordinance). The property is located west of Road 348 (Iron Lane) and being west of Seagrass Court 275 feet southwest of Seagrass Plantation Lane and east of Indian River Bay. 911 Address: None Available. Zoning District: AR-1. Tax Map No.: 1-34-7.00-108.00.

Request for a time extension.

Ms. Cornwell read a letter from the Applicant requesting a time extension.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the request for a time extension be **granted a one (1) year extension**. Motion carried 4 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Hudson – yea, Mr. Mills, and Mr. Callaway – yea.

**Meeting Adjourned 10:00 p.m.**